

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1114 OF 2005

Metropolitan Education Society & Ors. ..Appellants.
Vs.

Thankam Vasudevan & ors. ..Respondents.
Mr.R.S.Apte for Mr.Mandar Limaye for appellants.
Mr. G.H.Keluskar for respondent No.1.

WITH

CONTEMPT PETITION NO.70 OF 1998

Mrs. Thankar Vasudevan. ..Petitioner.
Vs.

The Metropolitan Education Society & Ors..Respondents.
Mr.M.M.Vashi for petitioner.
Mr.R.S.Apte for respondent No.2.
Mrs. Geeta Mulekar, AGP for respondent No.3.

CORAM: A.M.KHANWILKAR, J

DATE : FEBRUARY 23, 2007.

P.C. :

1. Heard counsel for the parties.
2. Substantial question of law arises for consideration in this appeal as to whether civil suit filed by the respondent No.1/plaintiff for the stated

cause of action was maintainable in law. Hence admit.

3. Mr. Keluskar waives notice for respondent No.1 in second appeal who is the contesting party. The matter is taken up for final hearing forthwith by consent.

4. This Second appeal is directed against Judgment and Decree passed by the IIIrd Ad Hoc Additional District Judge, Raigad-Alibag dated 2nd February, 2005 in Civil Appeal No.158 of 2001, which arose from the Judgment and Decree passed by the Civil Judge, Junior Division, Panvel, dated 24th January, 2000 in R.C.S No.65 of 1997. The respondent No.1 had filed suit for declaration and injunction against the appellant-society which is running school in question. The question that arises for consideration in Second Appeal is whether the suit was maintainable having regard to the purport of section 9 of the Maharashtra Employees of Private Schools (Conditions of Service) Regulation Act. That question has been answered recently by the Full Bench of our High Court in the case of **St.Ulai High School & Anr. V/s. Devendraprasad Jagannath Singh & Anr.** reported in 2007(1) Mh. L.J. 592. In view of the

said pronouncement, it necessarily follows that the suit filed by the respondent No.1 was not maintainable; for which reason, the Judgment and decree passed by the trial Court and as confirmed by the first appellate Court will have to be set aside. The second appeal therefore, succeeds on the above terms.

5. In so far as contempt petition is concerned, the same is filed on the assertion that the management has wilfully disobeyed the direction of the trial Court. It is not in dispute that management has already paid the dues of the plaintiff/petitioner in contempt petition. She has also retired from service on 30th June, 2003. Taking overall view of the matter, it is not necessary to precipitate the matter any further. Accordingly, even the contempt petition is disposed of.

6. It is fairly accepted by the counsel for the management that if the plaintiff/petitioner has any grievance with regard to the short payment of her dues or such other matters, it will be open to the petitioner/plaintiff to pursue her claim in that behalf in accordance with the law. That liberty is granted to the petitioner/plaintiff.

7. Ordered accordingly.